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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,456	11/28/2003	Jong Seok Kim	0465-1101P	8289
2292 7590 01/18/2007 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER RIGGLEMAN, JASON PAUL	
			ART UNIT	PAPER NUMBER
			1746	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		01/18/2007	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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mailroom@bskb.com

Office Action Summary

Application No.

10/722,456

Applicant(s)

KIM ET AL.

Examiner

Jason P. Riggleman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-12 and 14-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-12 and 14-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Response to Arguments

1. Applicant's cancellation of claim 3 and claim 13 in the reply filed on 12/22/2006 is acknowledged. Current pending claims are 1, 2, 4-12 and 14-21. Claims 1, 2, 4-7, 10, 12, and 14-17 are amended and claims 20-21 are new. In light of applicant's arguments (amendments to independent claims 1 and 10 to include the scope of claims 3 and 13, respectively) the 102 rejections are withdrawn on claims 1, 2, 6-7, 10-12 and 16-17.
2. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).
3. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.
4. Applicant's arguments filed 12/22/2006 have been fully considered but they are not persuasive. The applicant does not specifically point out errors and

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instead makes vague allegations. It is not enough to accuse the examiner of failing to make a prima facie case and to cite case law indicating the requirements for a robust 103 rejection. “In re Dailey” supports the rejection of claims 1 and 10 because the applicant has failed to specifically claim an invention which is sufficiently different from the admitted art to avoid it. It is not counter-intuitive to slightly change the shape of the hose guide part – in fact, it is likely that insertion of the hose would deform the shape of the hose guide part to resemble the claimed novelty. The applicant’s disclosure of prior art can be used to reject the claims. The ASA discloses a problem to be solved – it shows a hose guide part 61 of a drain hose holder 60. This obviously guides a drain hose in a washing machine. It is unclear how the claimed invention differs in solving the problem of holding and guiding a drain hose in a washing machine. The position remains and the arguments are not persuasive.

Response to Amendment

5. Applicant is reminded of the proper format for amending claims. All future amendments to claims filed on or after July 30, 2003 must comply with 37 CFR 1.121(c) which states:

When claim text with markings is required. All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of “currently amended,” and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having

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the status of "currently amended," or "withdrawn" if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn—currently amended."

In the instant application, the claims contain amendments which are not marked as required. See claims 1-2, specifically.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1 and 10 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. A "S-shaped vertical cross-section" is critical or essential to the practice of the invention, but not enabled by the disclosure --- Fig. 7 and paragraph [0026] of the specification, which discuss a "secondary-curved shape" and do not enable a "S-shaped vertical cross-section". See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

8. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "therein and downward" is confusing.

9. The term "convexly inward" in claims 20-21 is a relative term which renders the claims indefinite. The term "convexly inward" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of

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the scope of the invention. For purposes of examination, "convexly inward" is assumed to be away from the fixing hole towards the inside of the machine

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-2, 4-12 and 14-21 are rejected under 35 U.S.C. 103(a) as being obvious over the admitted state of the art, ASA, disclosed by the applicant.

3. The ASA (paragraphs [0007] – [0017]) and (Figs. 1-4) teaches a washing machine 1 including a tub 3 with a drum 3a provided inside, which has a drain hose 5 for discharging the water into the tub outside the cabinet, and a drain hose holder assembly 60 inserted through a fixing hole 11.

4. The drain hose holder assembly 60 has an entrance end 61a formed at a side in which the drain hose 5 is inserted, an exit end 61b opposite to the entrance end 61a, and a hose loading part 61c between the entrance end 61a and the exit end 61b.

5. The hose guide part 61 has a curved outline such as an oval figure and a sphere so that the drain hose 5 is led outside the cabinet 20. The locking part 65 consists of a bracket 65a inserted into the fixing hole 11 of the cabinet 20, an insertion protrusion 65b formed at the upper end of the bracket 65a and a fixing protrusion 65c formed at the lower portion of the bracket 65a.

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6. The bracket 65a consists of one end connected to the guide part 61, the other end vertically bent upward to support an outer wall of the cabinet 20, and an opening at its center. The insertion protrusion 65b passes the fixing hole 11 to an inner wall of the cabinet 20 above the fixing hole 11 when the drain hose holder 60 is installed at the fixing hole 11.

7. The fixing protrusion 65c has a wedge shape having a predetermined slope so that the drain hose holder 60 is not separated from the cabinet 20. The drain hose 5 has a bellows shape having wrinkles on its lateral side to enable free bending. The hose guide part 61 is constructed as either curved like an oval or a spherical line. The cross-section of the entrance is narrower than the loading part or the exit end.

12. The ASA does not teach a holder assembly wherein the slant wedge shape lower support body is provided to each side of the hose loading part in claims 8 and 17-18; however, the ASA does teach a wedge shaped fixing protrusion which has a predetermined slope and is on the lower portion of the bracket and assists in preventing detachment of the assembly from the washing machine. It has been held that duplication of parts would have been obvious (*In re Harza*, 124 USPQ 378). It would be obvious to one of ordinary skill in the art to modify the ASA by duplicating or changing the positions of the wedge shaped protrusion to provide a more effective means of affixing the drain hose holder assembly to the washing machine.

13. The ASA does not teach a holder assembly wherein the outer support body comprises an exit fixing part extending in winding outside the cabinet in the

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vertical axis of the opening in claim 9 and 19. It has been held that duplication of parts would have been obvious (*In re Harza*, 124 USPQ 378). It would be obvious to one of ordinary skill in the art to modify the ASA entrance fixing part and to duplicate in on the outside of the machine to produce an exit fixing part; thereby, making a more effective securing device for the hose.

14. In regards to claims 20-21, the upper portion of the guide part (the lip seen in Fig. 3) is bent convexly inward.

15. In regards to claims 1 and 10, the ASA does not teach a hose loading part having an inverted S-shaped vertical cross-section; however, it has been held that changes in shape would have been obvious (*In re Dailey* 149, USPQ 47). It would be obvious to one of ordinary skill in the art to modify the ASA by slightly changing the slope or curvature of the hose guide part to create a hose guide part which allows for effective hose installation (especially considering the S-shaped nature of the hose, Fig. 4). It would be obvious to one of ordinary skill in the art to modify the ASA by slightly changing the slope or curvature of the hose guide part to create a hose guide part which allows for effective hose installation.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is

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filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hood, Jr. et al. (US Patent No. 4870988), Putnam (US Patent No. 4860791), Heo et al. (US Patent No. 7077166), and Patera et al. (US Patent No. 5312138). Hood and Heo teach a one-piece drain hose for a washer wherein the corrugated drain hose is secured through the cabinet.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Riggleman whose telephone number is 571-272-5935. The examiner can normally be reached on M-F, 8:30-5:00.

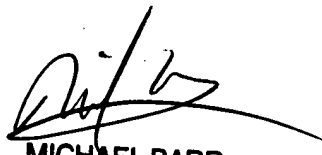
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Riggleman
Examiner
Art Unit 1746

JPR



MICHAEL BARR
SUPERVISORY PATENT EXAMINER